343 344

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION NO.4824 OF 2006

PETITIONERS

1. Gram Panchayat Ratija a body corporate having perpetual succession and a common seal by virtue of Section 11 of the C.G. Panchayat Raj Adhiniyam, 1993 ("The 1993 Adhiniyam"), having its Head Office at village Ratija, P.C. No.14, R.I. Circle Hardi Bazaar, Tahsil Pali, District Korba (C.G.). Acting in the premises through its Sarpanch.

2. Mr. Kripal Singh Kunwar, aged 45 years, S/o Shri Manohar Singh Kunwar, by caste Adivasi, Sarpanch Gram Panchayat Ratija, P.C. No.14, R.I. Circle Hardi Bazaar, Tahsil Pali, District Korba (C.G.)

Vs.

RESPONDENTS

1. The State of Chhattisgarh through the Principal Secretary to the Government of C.G., Department of Revenue, D.K.S. Bhawan, Mantralay, Raipur (C.G.)

2. The Chhattisgarh State Industrial Development Corporation Ltd. (CSIDC), an undertaking of the State Government of C.G. incorporated as a company under the Companies Act 1956, having its Head Office at LIC Bhawan, Jeevan Beema Marg, Pandri, Raipur (C.G.)

3. The General Manager District Trade and Industry Centre, Korba.

4. The Collector Korba.

5. The Sub-Divisional Officer (Revenue) Katghora.

6. M/s Kartikay Coal Washeries Pvt. Ltd., A company incorporated under the Companies Act, 1956 having its corporate office at 18 Vasant Enclave,

Rao Tularam Marg, New Delhi – 110057.

7. The South Eastern Coalfield Ltd. (SECL), a body corporate having perpetual succession and common seal and a public sector undertaking of the Central Government, having its Registered office at Seepat Road, Bilaspur (C.G.).

Present : Shri B.P. Sharma, learned counsel for the petitioners.
Shri Prashant Mishra, learned Addl. Adv. General with Shri Utkarsh Verma, learned G. A. for respondents 1,4 and 5.
Shri Ayaz Naved, learned counsel for respondent No.2.
Shri P. Diwakar, learned Sr. Advocate with Shri P.K. Bhaduri, learned counsel for respondent No.6.
Shri P.S. Koshy, learned counsel for respondent No.7.

ORAL ORDER

(Passed on 12th December, 2006)

The very petition schedule land which is the subject matter of the writ petition No.5732 of 2006 is the petition schedule land in this writ petition also. The petitioners apprehending that the petition schedule land is likely to be leased to respondent No.6 have preferred this writ petition seeking intervention of the Court. It is quite often said and reiterated by the Constitutional Courts that title dispute cannot be decided in a summary proceeding under Article 226 of the Constitution of India on the basis of affidavits and counter-affidavits, particularly, when it involves appreciation of evidence and recording of factual finding after permitting the parties to lead evidence and tendering them to cross-examine by each other. The materials placed before the Court would undeniably show that there is a serious title dispute between the Government of Chhattisgarh and the Management of S.E.C.L.- the 7th respondent herein. In para 2 of the reply filed by 7th respondent, it is stated that the petition schedule land was

acquired by the Central Government under the provisions of Coal Bearing Areas (Acquisition & Development) Act, 1957 and thereby the State Government was totally denuded of its ownership and in that view of the matter, neither the Government of Chhattisgarh nor the Chhattisgarh State Industrial Development Corporation has any right or jurisdiction to transfer or allot the petition schedule land to the sixth respondent. In the counter filed by the Chhattisgarh State Industrial Development Corporation-the second respondent, it is pointed out that since the sixth respondent did not furnish necessary details, a notice was issued to it to comply with the requirements, and that no further action is taken in that regard. One thing is certain that unless ultimately it is shown that the petition schedule land is the land owned by the State of Chhattisgarh, the petitioner Gram Panchayat asserting their right over the petition schedule land, as they have done in the present writ petition, would not arise. In other words, if ultimately it is found that the petition schedule land was acquired by the Central Government under the Coal Bearing Areas (Acquisition & Development) Act, 1957, and the Government of Chhattisgarh was denuded of its ownership, the petitioner-Gram Panchayat is not entitled to assert any right against the management of S.E.C.L. Therefore, in order to grant relief to the petitioners, it becomes absolutely necessary for the Court to decide in the first instance whether the petition schedule land is the ownership property of the State of Chhattisgarh or is the property of S.E.C.L./Central Government. That precise question cannot be decided, as already stated above, in a summary proceeding under Article 226 of the Constitution of India. That is the circumstance which persuaded the Court to dismiss the writ petition No.5732 of 2006 and directing the parties to workout their legal remedies by instituting suit before the civil Court. There is absolutely no good reason to take a different view from the one

already taken by us in W.P. No.5732 of 20006, particularly, because, the subject land is the same in both the writ petitions. Accordingly the writ petition is dismissed. No costs.

Sd/-
Chief Justice